

Article 2: Child Support Guidelines.

Worksheet 1 - Basic net income and support calculation.

Worksheet 2 - Split custody calculation.

Worksheet 3 - Calculation for joint physical custody.

Worksheet 4 - Number of children calculation.

Worksheet 5 - Deviations to child support guidelines.

Worksheet 6 - Imputation of childcare tax credit.

Table 1 - Income Shares Formula.

§ 4-201. Introduction.

The main principle behind these guidelines is to recognize the equal duty of both parents to contribute to the support of their children in proportion to their respective net incomes.

§ 4-202. Temporary and permanent support.

The guidelines are intended to be used for both temporary and permanent support determinations.

§ 4-203. Rebuttable presumption.

The child support guidelines shall be applied as a rebuttable presumption. All orders for child support obligations shall be established in accordance with the provisions of the guidelines unless the court finds that one or both parties have produced sufficient evidence to rebut the presumption that the guidelines should be applied. All stipulated agreements for child support must be reviewed against the guidelines and if a deviation exists and is approved by the court, specific findings giving the reason for the deviation must be made. Findings must state the amount of support that would have been required under the guidelines and include a justification of why the order varies from the guidelines. Deviations must take into consideration the best interests of the child. In the event of a deviation, the reason for the deviation shall be contained in the findings portion of the decree or order, or worksheet 5 should be completed by the court and filed in the court file. Deviations from the

guidelines are permissible under the following circumstances:

(A) When there are extraordinary medical costs of either parent or child;

(B) when special needs of a disabled child exist;

(C) if total net income exceeds \$20,000 monthly, child support for amounts in excess of \$20,000 monthly may be more but shall not be less than the amount which would be computed using the \$20,000 monthly income unless other permissible deviations exist. To assist the court and not as a rebuttable presumption, the court may use the amount at \$20,000 plus: 10 percent of net income above \$20,000 for one, two, and three children; 12 percent of net income above \$20,000 for four children; 13 percent of net income for five children; and 14 percent of net income for six children. For example, if the combined net parental income is \$30,000 monthly and there is one child, the schedule amount at \$20,000 is \$2,282. Ten percent of the net income above \$20,000 is \$2,000 (\$20,000 times .10). Therefore, the basic obligation is \$4,282 (\$2,282 plus \$2,000). If the obligor's share of the total net income is 85 percent, the obligor's share of the support is \$3,640 (\$4,282 times .85).

(D) for juveniles placed in foster care; or

(E) whenever the application of the guidelines in an individual case would be unjust or inappropriate.

All orders for child support, including modifications, must include a basic income and support calculation worksheet 1, and if used, worksheet 2 or 3.

Paragraph C amended Dec. 23, 1992; amended effective Jan. 1, 1996; amended effective July 1, 2007. Renumbered and codified as § 4-203, effective July 18, 2008; § 4-203(C) amended July 13, 2011, effective September 1, 2011.; § 4-203(C) amended September 25, 2019, effective January 1, 2020.

§ 4-204. Total monthly income.

(A) Total monthly income is the income of both parties derived from all sources, except all means-tested public assistance benefits which includes any earned income tax credit and payments received for children of prior marriages. This would include income that could be acquired by the parties through reasonable efforts. For instance, a court may consider as income the retained earnings in a closely-held corporation of which a party is a shareholder if the earnings appear excessive or inappropriate. All income should be annualized and divided by 12. For example, a party who receives a salary of \$400 gross per week would have an annualized gross income of \$20,800 (\$400 times 52) and a monthly income of \$1,733.33 (\$20,800 divided by 12). If the person is paid \$400 every 2 weeks, his or her annualized gross income would be \$10,400 (\$400 times 26) and monthly income would be \$866.67 (10,400 divided by 12).

(B) The court may consider overtime wages in determining child support if the overtime is a regular part of the employment and the employee can actually expect to regularly earn a certain amount of income from working overtime. In determining whether working overtime is

a regular part of employment, the court may consider such factors as the work history of the employee for the employer, the degree of control the employee has over work conditions, and the nature of the employer's business or industry.

(C) Depreciation calculated on the cost of ordinary and necessary assets may be allowed as a deduction from income of the business or farm to arrive at an annualized total monthly income. After an asset is shown to be ordinary and necessary, depreciation, if allowed by the trial court, shall be calculated by using the "straight-line" method, which allocates cost of an asset equally over its useful duration or life. An asset's life should be determined with reference to the Class-lives and Recovery Periods Table created pursuant to 26 CFR § 1.167(a)-11. A party claiming depreciation shall have the burden of establishing entitlement to its allowance as a deduction.

(D) Copies of at least 2 years' tax returns, financial statements, and current wage stubs should be furnished to the court and the other party to the action at least 3 days before any hearing requesting relief. Any party claiming an allowance of depreciation as a deduction from income shall furnish to the court and the other party copies of a minimum of 5 years' tax returns at least 14 days before any hearing pertaining to the allowance of the deduction.

(E) If applicable, earning capacity may be considered in lieu of a parent's actual, present income. Earning capacity is not limited to wage-earning capacity, but includes moneys available from all sources. When imputing income to a parent, the court shall take into consideration the specific circumstances of the parents, to the extent known. Those factors may include the parent's residence, employment and earnings history, job skills, educational attainment, literacy, age, health, and employment barriers, including criminal record, record of seeking work, prevailing local earning levels, and availability of employment.

(F) Incarceration may not be treated as voluntary unemployment or underemployment in establishing or modifying child support orders.

Paragraph D amended Dec. 23, 1992; amended effective Jan. 1, 1996; amended effective Sept. 1, 2002. Renumbered and codified as § 4-204, effective July 18, 2008. § 4-204 amended September 16, 2015, effective January 1, 2016; § 4-204 amended September 25, 2019, effective January 1, 2020.

§ 4-205. Deductions.

The following deductions should be annualized to arrive at monthly net income:

(A) Taxes. Standard deductions applicable to the number of exemptions provided by law will be used to establish the amount of federal and state income taxes.

(B) FICA. Social Security deductions, or any other mandatory contributions in lieu of Social Security deductions including any self-employment tax paid.

(C) Retirement. Individual contributions, in a minimum amount required by a mandatory retirement plan. Where no mandatory retirement plan exists, a deduction shall be allowed for a continuation of actual voluntary retirement contributions not to exceed 4 percent of the gross

income from employment or 4 percent from the net income from self-employment.

(D) Child Support. Child support previously ordered for other children.

(E) Other Children. Subject to § 4-220, credit may be given for biological or adopted children for whom the obligor provides regular support.

(F) Cost to the Parent for Health Insurance for Himself or Herself. A deduction shall be allowed for the monthly out-of-pocket cost to the parent for that particular parent's health insurance. This includes the cost of coverage for the parent only. It does not include the cost of health insurance for the child(ren), which is addressed in § 4-215(A). The parent requesting the deduction must submit proof of the cost actually incurred for health insurance coverage of the parent. The amount of the deduction for the cost to the parent for health insurance for himself or herself shall not exceed 5 percent of that parent's gross income.

Paragraph E amended effective Jan. 1, 1996; amended effective Sept. 1, 2002; amended effective July 1, 2007. Renumbered and codified as § 4-205, effective July 18, 2008. § 4-205(F) adopted September 16, 2015, effective January 1, 2016.

§ 4-206. Monthly support.

The combined monthly net income of both parties from line 4 of worksheet 1 is compared to table 1. For example, if the combined monthly net income was \$2,000 and there were three children, we would find \$712 as the child support from table 1 (read across the table from \$2,000 to the "Three Children" column to find \$712).

Paragraph F amended effective Jan. 1, 1996; amended Nov. 26, 2003, effective Jan. 1, 2004. Renumbered and codified as § 4-206, effective July 18, 2008; § 4-206 amended September 25, 2019, effective January 1, 2020.

§ 4-207. Parent's monthly share.

This is the child support amount from line 7, worksheet 1 (or line 9 if applicable), multiplied by the percentage contribution of each parent from line 6, worksheet 1. In our example, if F had a monthly net income of \$1,500 and M had a monthly income of \$500, each parent's monthly share would be \$534 for F (.75 times \$712) and \$178 for M (.25 times \$712). F would be required to pay M \$534 per month in the event M was awarded custody of the children.

Paragraph G amended effective Jan. 1, 1996; amended Nov. 26, 2003, effective Jan. 1, 2004; amended effective July 1, 2007. Renumbered and codified as § 4-207, effective July 18, 2008; § 4-207 amended September 25, 2019, effective January 1, 2020.

§ 4-208. More than one child.

If there is more than one child, the court's order should specify the amount of child support due for the children, with the amount recalculated and reduced as the obligation to support terminates for each child. The amount due for each possibility should be calculated separately from table 1. In our example, if M was awarded custody of the children, F would be required to pay \$534 (.75 times \$712) when there are three children, \$431.25 (.75 times \$575) when there are two children, and \$290.25 (.75 times \$387) when there is one child. See worksheet 4 . The order should direct that child support continue only until each child reaches majority under Nebraska law, becomes emancipated, becomes self-supporting, marries, or dies, or until further order of the court.

Paragraph H amended Dec. 23, 1992; amended effective Jan. 1, 1996; amended Nov. 26, 2003, effective Jan. 1, 2004. Renumbered and codified as § 4-208, effective July 18, 2008; § 4-208 amended September 25, 2019, effective January 1, 2020.

§ 4-209. Minimum support.

Even in very low income cases, except in cases of disability or incarceration where a lower amount may be justified, a minimum monthly support of \$50, or 10 percent of the obligor's net income, whichever is greater, per month should be set. This will help to maintain information on such obligor, such as his or her address, employment, etc., and, hopefully, encourage such person to understand the necessity, duty, and importance of supporting his or her children.

Paragraph I amended Dec. 23, 1992; amended effective Sept. 1, 2002. Renumbered and codified as § 4-209, effective July 18, 2008; § 4-209 amended September 25, 2019, effective January 1, 2020.

§ 4-210. Visitation or parenting time adjustments.

Visitation or parenting time adjustments or direct cost sharing should be specified in the support order. If child support is not calculated under § 4-212, an adjustment in child support may be made at the discretion of the court when visitation or parenting time substantially exceeds alternating weekends and holidays and 28 days or more in any 90-day period. During visitation or parenting time periods of 28 days or more in any 90-day period, support payments may be reduced by up to 80 percent. The amount of any reduction for extended parenting time shall be specified in the court's order and shall be presumed to apply to the months designated in the order. Any documented substantial and reasonable long-distance transportation costs directly associated with visitation or parenting time may be considered by the court and, if appropriate, allowed as a deviation from the guidelines.

Paragraph J amended effective Jan. 1, 1996; amended effective Sept. 1, 2002; amended effective July 1, 2007. Renumbered and codified as § 4-210, effective July 18, 2008.

§ 4-211. Split custody.

Split custody is defined as each parent having physical custody of one or more of the children. Worksheet 2 shows how to do this calculation.

§ 4-212. Joint physical custody.

When a specific provision for joint physical custody is ordered and each party's parenting time exceeds 142 days per year, it is a rebuttable presumption that support shall be calculated using worksheet 3. When a specific provision for joint physical custody is ordered and one party's parenting time is 109 to 142 days per year, the use of worksheet 3 to calculate support is at the discretion of the court. If child support is determined under this paragraph, all reasonable and necessary direct expenditures made solely for the child(ren) such as clothing and extracurricular activities shall be allocated between the parents, but shall not exceed the proportion of the obligor's parental contributions (worksheet 1, line 6). For purposes of these guidelines, a "day" shall be generally defined as including an overnight period.

Paragraph L amended effective July 1, 2007. Renumbered and codified as § 4-212, effective July 18, 2008; § 4-212 amended July 13, 2011, effective September 1, 2011.

§ 4-213. Alimony.

These guidelines intend that spousal support be determined from income available to the parties after child support has been established.

§ 4-214. Childcare expenses.

Childcare expenses are not specifically computed into the guidelines amount and are to be considered independently of any amount computed by use of these guidelines. Care expenses for the child for whom the support is being set, which are due to employment of either parent or to allow the parent to obtain training or education necessary to obtain a job or enhance earning potential, shall be allocated to the obligor parent as determined by the court, but shall not exceed the proportion of the obligor's parental contribution (worksheet 1, line 6) and shall be added to the basic support obligation computed under these guidelines.

The value of the federal income tax credit for child care shall be subtracted from actual costs to arrive at a figure for net childcare expenses. The Court may impute the value of the federal childcare tax credit using worksheet 6 if the parent incurring the childcare expense has monthly gross income above \$2,600 for one child; \$3,100 for two children; \$3,400 for three children; \$3,550 for four children; \$3,650 for five children; and \$3,800 for six children. The value shall be imputed at 25 percent of the childcare expense, not to exceed \$62.50 per month for one child and 20 percent of the childcare expense, not to exceed \$100 per month for two or more children.

Paragraph N amended effective Jan. 1, 1996; amended effective Sept. 1, 2002; amended effective July 1, 2007. Renumbered and codified as § 4-214, effective July 18, 2008. § 4-214 amended September 16, 2015, effective January 1, 2016.

§ 4-215. Child(ren)'s health insurance, nonreimbursed health care expenses, and cash medical support in Title IV-D cases.

As required by Neb. Rev. Stat. § 42-369(2), the child support order shall address how the parents will provide for the child(ren)'s health care needs through health insurance as well as the nonreimbursed reasonable and necessary child(ren)'s health care costs that are not included in table 1 that are provided for in § 4-215(B).

(A) Health Insurance. The increased cost to the parent for health insurance for the child(ren) of the parent shall be prorated between the parents. When worksheet 1 is used, it shall be added to the monthly support from line 7, then prorated between the parents to arrive at each party's share of monthly support on line 10 of worksheet 1. The parent requesting an adjustment for health insurance premiums must submit proof of the cost for health insurance coverage of the child(ren). The parent paying the premium receives a credit against his or her share of the monthly support. If not otherwise specified in the support order, "health insurance" includes coverage for medical, dental, orthodontic, optometric, substance abuse, and mental health treatment.

(B) Health Care. Children's health care expenses are specifically included in the guidelines

amount of up to \$250 per child per year. Children's health care needs are to be met by requiring either parent to provide health insurance as required by state law. All nonreimbursed reasonable and necessary children's health care costs in excess of \$250 per child per year shall be allocated to the obligor parent as determined by the court, but shall not exceed the proportion of the obligor's parental contribution (worksheet 1, line 6). If not otherwise specified in the support order, "health care costs" includes public or private coverage for medical, dental, orthodontic, optometric, substance abuse, and mental health treatment.

(C) Cash Medical Support and Health Care Costs for Title IV-D Cases Only.

(i) All child support orders in the Title IV-D program must address how the parties will provide for the child(ren)'s health care needs through public or private health care coverage and/or through cash medical support. Cash medical support or the cost of private health insurance is considered reasonable in cost if the cost to the party responsible for providing medical support for the child(ren) does not exceed 5 percent of his or her gross income. In applying the 5-percent standard, the cost is the cost of adding the child(ren) to existing health care coverage or the difference between self-only and the lesser of employee-plus-children or family health care coverage. Cash medical support payment shall not be ordered if, at the time that the order is issued or modified, the responsible party's income is, or such expense would reduce the responsible party's net income, below the basic subsistence limitation provided in § 4-218. If a court orders a parent to pay cash medical support, it shall be in lieu of, and not in addition to, requiring the parent to also pay reimbursement for reasonable and necessary children's health care costs as set forth in § 4-215(B).

(ii) The amount of cash medical support ordered in the case shall be prorated between the parents. When worksheet 1 is used, it shall be added to the monthly support from line 7, then prorated between the parents to arrive at each party's share of monthly support on line 10 of worksheet 1. The parent paying the cash medical support receives a credit against his or her share of the monthly support.

Paragraph O amended effective Jan. 1, 1996; amended effective Sept. 1, 2002; amended Nov. 26, 2003, effective Jan. 1, 2004; amended effective July 1, 2007. Renumbered and codified as § 4-215, effective July 18, 2008; § 4-215 amended Sept. 16, 2009; § 4-215(C) adopted Sept. 16, 2009, effective Sept. 30, 2009; § 4-215 (all sections) amended July 13, 2011, effective September 1, 2011; § 4-215(B) and (C)(i) amended September 25, 2019, effective January 1, 2020.

§ 4-216. Review.

The State Court Administrator shall review the Nebraska Child Support Guidelines not less than every 4 years, beginning in October 1993, and recommend revisions, if any, to the Nebraska Supreme Court. In addition, the Supreme Court will review reports submitted to it by the Child Support Advisory Commission.

Paragraph P amended effective Jan. 1, 1996; amended effective Sept. 1, 2002; amended effective July 1, 2007. Renumbered and codified as § 4-216, effective July 18, 2008.

§ 4-217. Modification.

Application of the child support guidelines which would result in a variation by 10 percent or more, but not less than \$25, upward or downward, of the current child support obligation, child care obligation, or health care obligation, due to financial circumstances which have lasted 3 months and can reasonably be expected to last for an additional 6 months, establishes a rebuttable presumption of a material change of circumstances.

Paragraph Q amended effective Jan. 1, 1996; amended effective Sept. 1, 2002. Renumbered and codified as § 4-217, effective July 18, 2008.

§ 4-218. Basic subsistence limitation.

A parent's support, child care, and health care obligation shall not reduce his or her net income below the minimum of \$1,133 net monthly for one person, or the poverty guidelines updated annually in the Federal Register by the U.S. Department of Health and Human Services under authority of 42 U.S.C. § 9902(2), except minimum support may be ordered as defined in § 4-209.

Paragraph R (previously Paragraph Q) adopted Dec. 23, 1992; amended effective Jan. 1, 1996; amended September 25, 1996; amended March 26, 1997; amended March 18, 1998; amended April 21, 1999; amended March 15, 2000; amended April 18, 2001; amended effective Sept. 1, 2002; amended February 26, 2003; amended March 10, 2004; amended March 9, 2005; amended March 1, 2006; amended February 27, 2008. Renumbered and codified as § 4-218, effective July 18, 2008; amended February 11, 2009; amended February 9, 2011; amended February 2, 2012; amended February 13, 2013; amended February 12, 2014; amended February 11, 2015; amended February 4, 2016; amended February 8, 2017; amended January 31, 2018; amended February 6, 2019; amended January 29, 2020; amended February 10, 2021; amended January 26, 2022.

§ 4-219. Limitation on increase.

Under no circumstances shall there be an increase in support due from the obligor solely because of an increase in the income of the obligee.

Paragraph S effective Sept. 1, 2002. Renumbered and codified as § 4-219, effective July 18, 2008.

§ 4-220. Limitation on decrease.

An obligor shall not be allowed a reduction in an existing support order solely because of the birth, adoption, or acknowledgment of subsequent children of the obligor; however, a duty to provide regular support for subsequent children may be raised as a defense to an action for an upward modification of such existing support order.

Paragraph T effective Sept. 1, 2002. Renumbered and codified as § 4-220, effective July 18, 2008.

§ 4-221. Rounding to the nearest whole dollar.

Final child support should be rounded to the nearest dollar in all instances.

§ 4-221 adopted July 13, 2011, effective September 1, 2011.

§ 4-222. Residence with third party.

If the child is residing with a third party, the court shall order each of the parents to pay to the third party their respective amounts of child support as determined by the worksheet.

§ 4-222 adopted July 13, 2011, effective September 1, 2011.
